

105 CMR: DEPARTMENT OF PUBLIC HEALTH

120.750: NOTICES, INSTRUCTIONS, AND REPORTS TO WORKERS; INSPECTIONS

120.751: Purpose and Scope

105 CMR 120.750 establishes requirements for notices, instructions and reports by licensees or registrants to individuals engaged in activities under a license or registration and options available to such individuals in connection with Agency inspections of licensees or registrants to ascertain compliance with the provisions of M.G.L. c. 111, §§ 3, 5M, 5N, 5O, and 5P and regulations, orders, and licenses issued thereunder regarding radiological working conditions. 105 CMR 120.750 applies to all persons who receive, possess, use, own, or transfer sources of radiation registered with or licensed by the Agency pursuant to 105 CMR 120.020 and 105 CMR 120.100.

120.752: Posting of Notices to Workers

- (A) Each licensee or registrant shall post current copies of the following documents:
- (1) The regulations in 105 CMR 120.750 and in 105 CMR 120.200;
 - (2) The license, certificate of registration, conditions or documents incorporated into the license by reference and amendments thereto;
 - (3) The operating procedures applicable to activities under the license or registration; and,
 - (4) Any notice of violation involving radiological working conditions, proposed imposition of civil penalty, or order issued pursuant to 105 CMR 120.001, and any response from the licensee or registrant.
- (B) If posting of a document specified in 105 CMR 120.752(A)(1), (2), or (3) is not practicable, the licensee or registrant may post a notice which describes the document and states where it may be examined.
- (C) Form MRCP 120.750-1 "Notice to Employees" shall be posted by each licensee or registrant as required by 105 CMR 120.000.
- (D) Agency documents posted pursuant to 105 CMR 120.752(A)(4) shall be posted within five working days after receipt of the documents from the Agency; the licensee's or registrant's response, if any, shall be posted within five working days after dispatch from the licensee or registrant. Such documents shall remain posted for a minimum of five working days or until action correcting the violation has been completed, whichever is later.
- (E) Documents, notices, or forms posted pursuant to 105 CMR 120.752 shall appear in a sufficient number of places to permit individuals engaged in work under the license or registration to observe them on the way to or from any particular work location to which the document applies, shall be conspicuous, and shall be replaced if defaced or altered.

120.753: Instructions to Workers

- (A) All individuals who in the course of employment are likely to receive in a year an occupational dose in excess of 1mSv (100 mrem)
- (1) shall be kept informed of the storage, transfer, or use of sources of radiation in the licensee's or registrant's workplace;
 - (2) shall be instructed in the health protection problems associated with exposure to radiation or radioactive material to the individual and potential offspring, in precautions or procedures to minimize exposure, and in the purposes and functions of protective devices employed;
 - (3) Shall be instructed in, and instructed to observe, to the extent within the worker's control, the applicable provisions

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of 105 CMR 120.000 and licenses for the protection of personnel from exposures to radiation or radioactive material;

(4) Shall be instructed of their responsibility to report promptly to the licensee or registrant any condition which may constitute, lead to, or cause a violation of the Act, 105 CMR 120.000, and licenses or unnecessary exposure to radiation or radioactive material;

(5) Shall be instructed in the appropriate response to warnings made in the event of any unusual occurrence or malfunction that may involve exposure to radiation or radioactive material; and,

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(6) Shall be advised as to the radiation exposure reports which workers shall be furnished pursuant to 105 CMR 120.754.

(B) In determining those individuals subject to the requirements of 105 CMR 120.753(A), licensees must take into consideration assigned activities during normal and abnormal situations involving exposure to radiation and/or radioactive material which can reasonably be expected to occur during the life of a licensed facility. The extent of these instructions shall be commensurate with potential radiological health protection problems present in the workplace.

120.754: Notifications and Reports to Individuals

(A) Radiation exposure data for an individual and the results of any measurements, analyses, and calculations of radioactive material deposited or retained in the body of an individual shall be reported to the individual as specified in 105 CMR 120.750. The information reported shall include data and results obtained pursuant to 105 CMR 120.000, orders, or license conditions, as shown in records maintained by the licensee or registrant pursuant to 105 CMR 120.267. Each notification and report shall:

- (1) Be in writing;
- (2) Include appropriate identifying data such as the name of the licensee or registrant, the name of the individual, and the individual's social security number;
- (3) Include the individual's exposure information; and,
- (4) Contain the following statement:

"This report is furnished to you under the provisions of 105 CMR 120.750. You should preserve this report for future reference."

(B) Each licensee or registrant shall furnish to each worker annually a written report of the worker's exposure to radiation or radioactive material as shown in records maintained by the licensee or registrant pursuant to 105 CMR 120.267.

(C) Each licensee or registrant shall furnish a written report of the worker's exposure to sources of radiation at the request of a worker formerly engaged in activities controlled by the licensee or registrant. The report shall include the dose record for each year the worker was required to be monitored pursuant to 105 CMR 120.226. Such report shall be furnished within 30 days from the date of the request, or within 30 days after the dose of the individual has been determined by the licensee or registrant, whichever is later. The report shall cover the period of time that the worker's activities involved exposure to sources of radiation and shall include the dates and locations of work under the license or registration in which the worker participated during this period.

(D) When a licensee or registrant is required pursuant to 105 CMR 120.282, 120.283, or 120.284, 120.285, or 120.286 to report to the Agency any exposure of an individual to sources of radiation, the licensee or the registrant shall also provide the individual a written report on the exposure data included therein. Such reports shall be transmitted at a time not later than the transmittal to the Agency.

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(E) At the request of a worker who is terminating employment with the licensee or registrant in work involving exposure to radiation or radioactive material, during the current year, each licensee or registrant shall provide at termination to each such worker, or to the worker's designee, a written report regarding the radiation dose received by that worker from operations of the licensee or registrant during the current year or fraction thereof. If the most recent individual monitoring results are not available at that time, a written estimate of the dose shall be provided together with a clear indication that this is an estimate.

120.755: Presence of Representatives of Licensees or Registrants and Workers During Inspection

(A) Each licensee or registrant shall afford to the Agency at all reasonable times opportunity to inspect materials, machines, activities, facilities, premises, and records pursuant to 105 CMR 120.000.

(B) During an inspection, Agency inspectors may consult privately with workers as specified in 105 CMR 120.756. The licensee or registrant may accompany Agency inspectors during other phases of an inspection.

(C) If, at the time of inspection, an individual has been authorized by the workers to represent them during Agency inspections, the licensee or registrant shall notify the inspectors of such authorization and shall give the workers' representative an opportunity to accompany the inspectors during the inspection of physical working conditions.

(D) Each ~~workers'~~ **worker's** representative shall be routinely engaged in work under control of the licensee or registrant and shall have received instructions as specified in 105 CMR 120.753.

(E) Different representatives of licensees or registrants and workers may accompany the inspectors during different phases of an inspection if there is no resulting interference with the conduct of the inspection. However, only one workers' representative at a time may accompany the inspectors.

(F) With the approval of the licensee or registrant and the workers' representative, an individual who is not routinely engaged in work under control of the licensee or registrant, for example, a consultant to the licensee or registrant or to the workers' representative, shall be afforded the opportunity to accompany Agency inspectors during the inspection of physical working conditions.

(G) Notwithstanding the other provisions of 105 CMR 120.755, Agency inspectors are authorized to refuse to permit accompaniment by any individual who deliberately interferes with a fair and orderly inspection. With regard to areas containing information classified by an agency of the U.S. Government in the interest of national security, an individual who accompanies an inspector may have access to such information only if authorized to do so. With regard to any area containing proprietary information, the workers' representative for that area shall be an individual previously authorized by the licensee or registrant to enter that area.

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120.756: Consultation with Workers During Inspections

(A) Agency inspectors may consult privately with workers concerning matters of occupational radiation protection and other matters related to applicable provisions of 105 CMR 120.000 and licenses to the extent the inspectors deem necessary for the conduct of an effective and thorough inspection.

(B) During the course of an inspection, any worker may bring privately to the attention of the inspectors, either orally or in writing, any past or present condition which the worker has reason to believe may have contributed to or caused any violation of M.G.L. c. 111, §§. 5N, and 5P, 105 CMR 120.000, or license condition, or any unnecessary exposure of an individual to sources of radiation under the licensee's or registrant's control. Any such notice in writing shall comply with the requirements of 105 CMR 120.757(A).

(C) The provisions of 105 CMR 120.756(B) shall not be interpreted as authorization to disregard instructions pursuant to 105 CMR 120.753.

120.757: Requests by Workers for Inspections

(A) Any worker or representative of workers believing that a violation of the Act, 105 CMR 120.000, or license conditions exists or has occurred in work under a license or registration with regard to radiological working conditions in which the worker is engaged may request an inspection by giving notice of the alleged violation to the Agency. Any such notice shall be in writing, shall set forth the specific grounds for the notice, and shall be signed by the worker or representative of the workers. A copy shall be provided to the licensee or registrant by the Agency no later than at the time of inspection except that, upon the request of the worker giving such notice, his name and the name of individuals referred to therein shall not appear in such copy or on any record published, released, or made available by the Agency, except for good cause shown.

(B) If, upon receipt of such notice, the Agency determines that the complaint meets the requirements set forth in 105 CMR 120.757(A), and that there are reasonable grounds to believe that the alleged violation exists or has occurred, an inspection shall be made as soon as practicable to determine if such alleged violation exists or has occurred. Inspections pursuant to 105 CMR 120.757 need not be limited to matters referred to in the complaint.

(C) No licensee, registrant, or contractor or subcontractor of a licensee or registrant shall discharge or in any manner discriminate against any worker because such worker has filed any complaint or instituted or caused to be instituted any proceeding under 105 CMR 120.000 or has testified or is about to testify in any such proceeding or because of the exercise by such worker on behalf of himself or others of any option afforded by 105 CMR 120.750.

120.758: Inspections Not Warranted; Informal Review

(A) (1) If the Agency determines, with respect to a complaint under 105 CMR 120.757, that an inspection is not warranted because there are no reasonable grounds to believe that a violation exists or has occurred, the Agency shall notify the complainant in writing of such determination. The complainant may obtain review of such determination by submitting a written statement of position with the Department. The Department will provide the licensee or registrant with a copy of such statement by certified mail, excluding, at the request of the complainant, the name of the complainant. The licensee or registrant may submit an opposing written statement of position with the Department. The Department will provide the complainant with a copy of such statement by certified mail.

(2) Upon the request of the complainant, the Department may hold an informal conference in which the complainant and the licensee or registrant may, orally present their views. An informal conference may also be held at the request of the

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licensee or registrant, but disclosure of the identity of the complainant will be made only following receipt of written authorization from the complainant. After considering all written and oral views presented, the Department shall affirm, modify, or reverse the determination of the Agency and furnish the complainant and the licensee or registrant a written notification of the decision and the reason therefor.

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(B) If the Agency determines that an inspection is not warranted because the requirements of 105 CMR 120.757(A) have not been met, the complainant shall be notified in writing of such determination. Such determination shall be without prejudice to the filing of a new complaint meeting the requirements of 105 CMR 120.757(A).

120.760: Emergency Plans

The user should formulate suitable emergency plans as may be indicated to protect his employees and the public against potential hazards due to his specific source(s), and should make known the details and existence of such plans to the Agency and such other public agencies having a concern; including, but not limited to, boards of health, fire departments and police departments.